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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA Commercial Mortgage Company,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**DECLARATION OF GEOFFREY
BERMAN IN SUPPORT OF
OMNIBUS OBJECTIONS OF THE
USACM TRUST TO PROOFS OF
CLAIM BASED UPON
INVESTMENT IN THE LAKE
HELEN LOAN**

Hearing Date: September 30, 2011

Hearing Time: 9:30 a.m.

Estimated Time for Hearing: 10 minutes

I, Geoffrey L. Berman, declare under penalty of perjury:

1. I am an adult person competent to testify in court.
2. I make this declaration based upon my personal knowledge, and upon the records USA Commercial Mortgage Company.
3. I am the Trustee of the USACM Liquidating Trust ("USACM Trust"), which is an entity created by the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization ("Plan"), in the jointly-administered bankruptcy cases, In re USA Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States Bankruptcy Court for the District of Nevada.

4. USA Commercial Mortgage (“USACM”) circulated an Offer Sheet to prospective Direct Lenders soliciting funding for an acquisition and development loan to borrowers identified as “Old City, L.C.” and “Lake Helen Partners, L.C.” (collectively, “Borrower”). A copy of the Offer Sheet is attached hereto as **Exhibit B** and incorporated by this reference. The Offer Sheet stated that the Borrower was a wholly owned entity of Bay Communities, a developer of condominium communities in Massachusetts and Florida. The total loan amount proposed was \$3,900,000. The Offer Sheet described the investment as a “First Mortgage Investment” and noted that the investment would be secured by a first mortgage on six pieces of property in Lake Helen, Florida with a combined acreage of approximately 73 acres, plus an additional 36 residential lots, and a first mortgage on 5,500 square feet of commercial space in St. Augustine, Florida. The Offer Sheet noted that the estimated loan to value was 51% based upon an appraisal prepared by Lui Realty Advisors, Inc. The loan was also to be supported by a personal guaranty executed by Valerie Kaan, the principal of Bay Communities.

5. On December 7, 2004, Borrower made and delivered to various lenders, including the Direct Lenders identified in **Exhibit A**, a “Promissory Note Secured by Mortgage” (the “Note”) and a Loan Agreement. The Note and Loan Agreement provided for a loan of \$3,900,000. The Note was secured by a “Mortgage, Security Agreement, and Assignment of Rents” (the “Mortgage”) from the Borrower in favor of the Direct Lenders that was recorded in the official records of St. Johns County, Florida on December 8, 2004.

6. As noted above, the Note was supposed to be supported by a guaranty from Valerie E. Kaan, but the Trust was unable to locate one.

7. Pursuant to Loan Extension Agreement dated December 7, 2004, the loan due date for the loan was extended for an additional six months.

